

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

GREGORY SCOTT GOODYEAR,)	8:17CV466
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
)	
THOMAS SCHWARTEN, Lt.)	
Colonel (Nebraska State Troopers),)	
and PETE RICKETTS, Governor,)	
)	
Defendants.)	

This matter is before the court on its own motion. In a memorandum and order entered on January 23, 2018 (Filing No. [9](#)), Plaintiff was granted leave to proceed in forma pauperis. Upon further review, the court finds such memorandum and order was entered in error.

As stated in the Prison Litigation Reform Act, a prisoner cannot “bring a civil action . . . or proceeding [in forma pauperis] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action . . . in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” [28 U.S.C. §1915\(g\)](#).

The court takes judicial notice that the United States District Court for the Middle District of Florida found on several occasions in 2007 that Plaintiff has three or more qualifying dismissals. See [Goodyear v. State of Florida](#), No. 207-CV-728-FTM-34SPC, 2007 WL 4287549 (M.D. Fla. Dec. 4, 2007); [Goodyear v. Morreal](#), No. 2:07CV-308FTM-34DNF, 2007 WL 1655476 (M.D. Fla. June 5, 2007); [Goodyear v. Sizemore](#), No. 2:07-CV-309FTM34SPC, 2007 WL 1428919 (M.D. Fla. May 14, 2007); [Goodyear v. Lee Couny Jail](#), No. 207CV-277-FTM-34SPC, 2007 WL 1390719 (M.D. Fla. May 9, 2007). Plaintiff does not allege he is in imminent danger of serious physical injury.

Accordingly, Plaintiff has until March 12, 2018, to show cause why this matter should not be dismissed pursuant to [28 U.S.C. §1915\(g\)](#). Alternatively, Plaintiff may

pay the full \$400.00 filing and administrative fees no later than March 12, 2018. In the absence of good cause shown or the payment of the necessary fees, this matter will be dismissed without further notice.

IT IS ORDERED:

1. The court's memorandum and order entered on January 23, 2018 (Filing No. [9](#)), is set aside and vacated.
2. Plaintiff's motion for leave to proceed in forma pauperis (Filing No. [5](#)) is denied.
3. Plaintiff has until March 12, 2018, to either show cause why this case should not be dismissed pursuant to 28 U.S.C. §1915(g) or pay the full \$400.00 filing and administrative fees. In the absence of either action by Plaintiff, this matter will be dismissed without further notice.
4. The clerk of the court is directed to set a pro se case management deadline in this matter with the following text: March 12, 2018: Deadline for Plaintiff to show cause or pay fees.

DATED this 8th day of February, 2018.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge